

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES
Before the Director of the Department of Insurance and Financial Services

In the matter of:

Shoreline Sport and Spine, PC d/b/a iMove
Petitioner

File No. 21-1757

v

MemberSelect Insurance Company
Respondent

Issued and entered
this 24th day of January 2022
by Sarah Wohlford
Special Deputy Director

ORDER

I. PROCEDURAL BACKGROUND

On November 8, 2021, Shoreline Sport and Spine, PC dba iMove (Petitioner) filed with the Department of Insurance and Financial Services (Department) a request for an appeal pursuant to Section 3157a of the Insurance Code of 1956 (Code), 1956 PA 218, MCL 500.3157a. The request for an appeal concerns the determination of MemberSelect Insurance Company (Respondent) that the Petitioner overutilized or otherwise rendered or ordered inappropriate treatment, products, services, or accommodations under Chapter 31 of the Code, MCL 500.3101 to MCL 500.3179.

The Petitioner's appeal is based on the denial of a bill pursuant to R 500.64(3), which allows a provider to appeal to the Department from the denial of a provider's bill. The Respondent issued the Petitioner bill denials on October 1, 4 and 18, 2021. The Petitioner now seeks reimbursement in the full amount it billed for the dates of service at issue.

The Department accepted the request for an appeal on December 13, 2021. Pursuant to R 500.65, the Department notified the Respondent and the injured person of the Petitioner's request for an appeal on December 13, 2021 and provided the Respondent with a copy of the Petitioner's submitted documents. The Respondent filed a reply to the Petitioner's appeal on December 27, 2021.

The Department assigned an independent review organization (IRO) to analyze issues requiring medical knowledge or expertise relevant to this appeal. The IRO submitted its report and recommendation to the Department on January 18, 2022.

II. FACTUAL BACKGROUND

This appeal concerns the denial of payment for physical therapy and manual therapy treatments rendered on August 19, 24, 26, and 31, 2021; and September 2, 7, 9, 14, 16, 21, 27, and 30, 2021. The Current Procedural Terminology (CPT) codes at issue include 97140, 97110, and 97112, which are described as manual therapy, therapeutic exercise, and neuromuscular reeducation, respectively. In its Explanation of Benefits letter, the Respondent referenced the Official Disability Guidelines (ODG) and stated that the treatment “exceeds the period of care for either utilization or relatedness.”

With its appeal request, the Petitioner submitted medical documentation which identified the injured person’s diagnoses as pain in the left side of her head, left collarbone, neck, and low back in relation to a motor vehicle accident in May of 2021. The Petitioner explained that the injured person’s care plan commenced June 13, 2021 at 2 times per week for 8-10 weeks, and a new care plan was set on August 12, 2021 at 2 times per week for 7 weeks. The Petitioner stated that, after “multiple attempts,” it was not able to reach the Respondent regarding the unpaid claims. The Petitioner further stated in its supporting documentation that the ODG guidelines do not apply to the injured person’s case “as her neck pain is an acute onset pain” that resulted from the MVA.

The Petitioner’s request for an appeal further stated:

Neither [the Petitioner] nor the patient were notified that there was a visit limit nor was any notification given of denial of dates of service and/or charges until 10/4/2021, over six full weeks after the first denied date of service occurred...Had [the Petitioner] been informed of a visit limit or notified in a timely manner of denial of charges, we would not have allowed [the injured person] to continue to schedule appointments and receive treatment without changing to a Private Pay scenario. We are confident that had [the injured person] been notified of the denial of charges, she would not have scheduled and attended those appointments, either.

In its reply, the Respondent reaffirmed its position and referenced the American College of Occupational and Environmental Medicine (ACOEM) guidelines for cervical and thoracic spine disorders. The Respondent noted that “over 20 physical therapy treatment sessions have been provided” to the injured person and stated that the quantity of treatment exceeds the ACOEM guidelines. The Respondent stated that there was “significant opportunity” to establish and re-enforce a home exercise program.

III. ANALYSIS

Director’s Review

Under MCL 500.3157a(5), a provider may appeal an insurer’s determination that the provider overutilized or otherwise rendered inappropriate treatment, products, services, or accommodations, or that the cost of the treatment, products, services, or accommodations was inappropriate under Chapter 31 of the Code. This appeal involves a dispute regarding inappropriate treatment and overutilization.

The Director assigned an IRO to review the case file. In its report, the IRO reviewer concluded that, based on the submitted documentation, medical necessity was not supported on the dates of service at issue and the treatment was overutilized in frequency or duration based on medically accepted standards.

The IRO reviewer is a physician board-certified in physical medicine and rehabilitation with additional fellowship in neuromuscular medicine. In its report, the IRO reviewer referenced R 500.61(i), which defines “medically accepted standards” as the most appropriate practice guidelines for the treatment provided. These may include generally accepted practice guidelines, evidence-based practice guidelines, or any other practice guidelines developed by the federal government or national or professional medical societies, board, and associations. The IRO reviewer relied on ODG by MC guidelines for cervical strain and upper back conditions and medical literature for its recommendation.

The IRO reviewer explained that ODG recommends physical therapy at a quantity of 10 visits over 8 weeks for treatment of cervical strain. In addition, the IRO reviewer explained that the Cochrane Database of Systematic Reviews notes “low quality evidence” to support neck strengthening exercise in acute cervical radiculopathy for pain relief in the short term, and that “there were no specific recommendations for the number of physical therapy sessions.” The IRO reviewer noted improvements from therapy were evident from the injured person’s initial evaluation to the Petitioner’s subsequent assessment in mid-August.

The IRO reviewer opined:

The study from Brodke et.al. looked at the Oswestry Disability Index (ODI) in relation to spinal conditions and noted the minimum clinically important difference (MCID). MCID values ranged from 7 to 51 points with a median of 24. From initial PT to 8/12/2021 assessment, the ODI changed 25.6 points, and therefore, a clinically important difference was achieved. However, home exercises provided during those visits leading up to 8/19/2021 could have been completed at home past 8/19/2021. ODG by MCG note for cervical strain that physical therapy recommendations are for 10 visits over 8 weeks.

The IRO reviewer recommended that the Director uphold the Respondent’s determination that the physical therapy and manual therapy treatment provided to the injured person on the dates of service at issue were not medically necessary in accordance with medically accepted standards, as defined by R 500.61(i).

IV. ORDER

The Director upholds the Respondent’s determination dated October 1, 4 and 18, 2021.

This order applies only to the treatment and dates of service discussed herein and may not be relied upon by either party to determine the injured person’s eligibility for future treatment or as a basis for action on other treatment or dates of service not addressed in this order.

This is a final decision of an administrative agency. A person aggrieved by this order may seek judicial review in a manner provided under Chapter 6 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.301 to 24.306. MCL 500.244(1); R 500.65(7). A copy of a petition for judicial review should be sent to the Department of Insurance and Financial Services, Office of Research, Rules, and Appeals, Post Office Box 30220, Lansing, MI 48909-7720.

Anita G. Fox
Director
For the Director:

X *Sarah Wohlford*

Sarah Wohlford
Special Deputy Director
Signed by: Sarah Wohlford